

Senate Bill 272

By: Senator Robertson of the 29th

A BILL TO BE ENTITLED
AN ACT

To amend Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to schedules, offenses, and penalties regarding the regulation of controlled substances, so as to prohibit the sale to and by minors of drug products containing dextromethorphan; to provide for definitions; to provide for proper identification; to provide for a list of finished drug products; to provide for penalties; to provide for statutory construction; to provide for state regulation; to provide for limited liability; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to schedules, offenses, and penalties regarding the regulation of controlled substances, is amended by adding a new Code section to read as follows:

"16-13-30.7.

(a) As used in this Code section, the term:

(1) 'Finished drug product' means a drug legally marketed under the Federal Food, Drug, and Cosmetic Act that is in finished dosage form.

(2) 'Minor' means any individual under the age of 18 years.

(3) 'Person' means any natural person or any firm, partnership, company, corporation, or other entity.

(4) 'Proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or identification card authorized under Code Sections 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate.

(b)(1) It shall be unlawful for any person to knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a minor.

(2) It shall be unlawful for any minor to purchase a finished drug product containing any quantity of dextromethorphan.

(c) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan shall require and obtain proper identification from the purchaser before completing the sale.

(d) Any trade association representing manufacturers of over-the-counter finished drug products containing dextromethorphan shall provide to any requesting retail business a list of the finished drug products containing dextromethorphan marketed by the trade association's members. A retail business may make a request to a trade association pursuant to this subsection only once per year.

(e)(1) Any person that violates paragraph (1) of subsection (b) of this Code section shall receive a warning letter from local law enforcement for the first violation and shall thereafter be subject to a civil penalty by local law enforcement in an amount not to exceed \$100.00 for a second violation and each subsequent violation.

(2) Any person that violates paragraph (2) of subsection (b) of this Code section shall receive a warning letter from local law enforcement for the first violation and shall thereafter be subject to a civil penalty by local law enforcement in an amount not to exceed \$150.00 for a second violation and each subsequent violation.

(3) The civil penalties contained in this subsection shall be the exclusive penalties in connection with a violation of this Code section, and a violation or violations shall not result in a licensing action against a person by any state, county, or municipal licensing board, department, or agency.

(f) With respect to any sale made by an employee of a retail business, the owner of the retail business shall be deemed to be in compliance with the provisions of paragraph (1) of subsection (b) of this Code section if the owner:

(1) Had no actual knowledge of the sale; and

(2) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of paragraph (1) of subsection (b) of this Code section.

(g) This Code section shall not be construed to:

(1) Impose any restriction on the placement of products in a specific place within a retail store or on consumers' direct access to finished drug products;

(2) Impose any requirement on the maintenance of transaction or verification records by any person in connection with the sale of dextromethorphan; or

